

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SETTLEMENT FUNDING LLC, et al.,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	
	§	
RSL FUNDING, LLC, et al.,	§	
	§	CIVIL ACTION NO. H-12-2044
Defendants.	§	
	§	
v.	§	
	§	
JLL PARTNERS, INC., et al.,	§	
	§	
Third-Party Defendants.	§	

AMENDED ORDER ADOPTING MAGISTRATE JUDGE'S
MEMORANDUM, RECOMMENDATION, AND ORDER

Pending before the court is Defendants/Counter-Claimants' Objections to the Court's Memorandum, Recommendation, and Order Dated February 25, 2014, Motion for One Day Extension to File Objections to the Magistrate Judge's Memorandum, Recommendation and Order, and Motion for Reconsideration of the Court's March 12, 2014 Order Adopting Magistrate Judge's Memorandum, Recommendation, and Order (Docket Entry No. 179).

The Memorandum, Recommendation, and Order (Docket Entry No. 165) was signed and docketed on February 25, 2014. Having received no objections to the Memorandum, Recommendation, and Order, the court adopted it fifteen days later, on March 12, 2014, at 3:41 p.m. Defendants filed their objections, motion for

extension, and motion for reconsideration at 11:50 p.m. on March 12, 2014. Defendants ask the court to grant them a one-day extension to file their objections and to consider the merits of their objections. In the event that the court does not grant an extension, Defendants ask the court to reconsider its decision to adopt the Memorandum, Recommendation, and Order.

The court **GRANTS** Defendants' motion for an extension and **GRANTS** Defendants' motion to reconsider the Order Adopting Magistrate Judge's Memorandum, Recommendation, and Order. Having reviewed the Memorandum, Recommendation, and Order and the objections thereto, the court concludes, for the reasons explained below, that one objection to the Magistrate Judge's dispositive recommendations should be sustained.

A district court that refers a case to a magistrate judge must review de novo any portions of the magistrate judge's proposed findings and recommendations on dispositive matters to which the parties have filed specific, written objections. See Fed. R. Civ. P. 72(b)(3). Among other options, the district court may accept, reject, or modify, in whole or in part, the challenged portions of the proposed findings and recommendations. Id.

Defendants do not object to the Magistrate Judge's recommendation that Plaintiff Settlement Funding, LLC's Motion for Partial Summary Judgment on its tortious-interference claim (Docket No. 115) be denied but, instead, object to a conclusion of law that

the Magistrate Judge reached in the process of analyzing the parties' arguments. Defendants object to three statements in the Memorandum, Recommendation, and Order, all of which relate to one legal conclusion. The Magistrate Judge concluded that, pursuant to a decision of the Court of Appeals of Texas, Fourteenth District ("Fourteenth Court of Appeals") in this case, it is the law of the case that structured settlement transfer agreements are subject to claims of tortious interference prior to state court approval.

After the briefing on Plaintiff Settlement Funding, LLC's motion for summary judgment on the tortious-interference claim was complete, but before the court ruled on it, the Fourteenth Court of Appeals issued an opinion in another case with similar facts. See Washington Square Fin., LLC v. RSL Funding, LLC v. RSL Funding, LLC, 418 S.W.3d 761 (Tex. App.-Houston [14th Dist. 2013], pet. filed). There, the Fourteenth Court of Appeals "conclude[d] that [,] because the transfer agreement had not been approved by the court, its enforcement would violate public policy." Id. at 764. The plaintiff in that case filed a petition for review with the Supreme Court of Texas, which remains pending.

Neither party in this case alerted the court to the Washington Square Financial, LLC decision in connection with the summary judgment briefing. The Magistrate Judge did not consider its effect on the law of this case. However, the opinion in Washington Square Financial, LLC is inconsistent with that court's implied


holding in its earlier decision in this case. Washington Square Financial, LLC calls into question whether the doctrine of law of the case should be employed to allow Plaintiff Settlement Funding, LLC to pursue its tortious-interference claim in this case.

The parties did not address, in either their summary judgment briefs or their briefs on Defendants' objections, how Washington Square Financial, LLC affects the application of law of the case. At a minimum, the court concludes that Plaintiff Settlement Funding, LLC, failed to meet its burden on summary judgment of proving that it is entitled to judgment as a matter of law. Therefore, the court concludes that the Magistrate Judge's recommendation that Plaintiff Settlement Funding, LLC's motion be denied should be adopted for an additional reason.

With the above modifications, it is **ORDERED** that the Memorandum, Recommendation, and Order (Docket Entry No. 165) is **ADOPTED** by the court.

The Clerk shall send copies of this Amended Order Adopting Magistrate Judge's Memorandum, Recommendation, and Order to the respective parties.

SIGNED at Houston, Texas, on this the 15th day of April, 2014.


SIM LAKE
UNITED STATES DISTRICT JUDGE